

Assembly Bill No. 1391

Passed the Assembly August 29, 2008

Chief Clerk of the Assembly

Passed the Senate August 25, 2008

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 42476 of, and to add Section 42465.4 to, the Public Resources Code, relating to electronic waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1391, Brownley. Electronic waste.

(1) The Electronic Waste Recycling Act of 2003 requires a retailer selling a covered electronic device in this state to collect a covered electronic waste recycling fee from the consumer. Those fees are deposited in the Electronic Waste Recovery and Recycling Account, and the California Integrated Waste Management Board and the Department of Toxic Substances Control are continuously appropriated the money in the account to make electronic waste recovery payments and recycling payments and to make payments to manufacturers, to cover the costs of collecting, consolidating, transporting, receiving, processing, and recycling covered electronic waste in this state.

The act requires each manufacturer of a covered electronic device to make information available to consumers, through the use of a toll-free telephone number, Internet Web site, information labeled on the device, information included in the packaging, or information accompanying the sale of covered electronic devices. A violation of the act is a crime.

This bill would require a retailer that sells a covered electronic device to provide the board's Internet Web site address to a customer at the point of sale of that device. The Internet Web site would be required to describe where and how to return, recycle, and dispose of a covered electronic device and opportunities and locations for the collection or return of the device. A retailer would be required to provide this information to a customer at the point of sale of the device through a sign or written material, or on the sales receipt. This provision would be operative on July 1, 2009.

By establishing these requirements on a retailer of a covered electronic device, the bill would impose a state-mandated local program by creating a new crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by

the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 42465.4 is added to the Public Resources Code, to read:

42465.4. (a) (1) A retailer that sells a covered electronic device shall provide the board's Internet Web site address to a customer at the point of sale of that device. The Internet Web site shall describe where and how to return, recycle, and dispose of a covered electronic device and opportunities and locations for the collection or return of that device.

(2) The retailer shall provide this information to a customer at the point of sale of the covered electronic device through a sign or written material, or on the sales receipt. This information may read as follows:

FOR INFORMATION ON WHERE AND HOW TO RETURN, RECYCLE, AND DISPOSE OF A COVERED ELECTRONIC DEVICE, SEE WWW.ERECYCLE.ORG.

(b) This section shall become operative on July 1, 2009.

SEC. 2. Section 42476 of the Public Resources Code is amended to read:

42476. (a) The Electronic Waste and Recovery and Recycling Account is hereby established in the Integrated Waste Management Fund. All fees collected pursuant to this chapter shall be deposited in the account. Notwithstanding Section 13340 of the Government Code, the funds in the account are hereby continuously appropriated, without regard to fiscal year, for the following purposes:

(1) To pay refunds of the covered electronic waste recycling fee imposed under Section 42464.

(2) To make electronic waste recovery payments to an authorized collector of covered electronic waste pursuant to Section 42479.

(3) To make electronic waste recycling payments to covered electronic waste recyclers pursuant to Section 42479.

(4) To make payments to manufacturers pursuant to subdivision (g).

(b) (1) The money in the account may be expended for the following purposes only upon appropriation by the Legislature in the annual Budget Act:

(A) For the administration of this chapter by the board and the department.

(B) To reimburse the State Board of Equalization for its administrative costs of registering, collecting, making refunds, and auditing retailers and consumers in connection with the covered electronic waste recycling fee imposed under Section 42464.

(C) To provide funding to the department to implement and enforce Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code, as that chapter relates to covered electronic devices, and any regulations adopted by the department pursuant to that chapter.

(D) To establish the public information program specified in subdivision (d).

(2) Any fines or penalties collected pursuant to this chapter shall be deposited in the Electronic Waste Penalty Subaccount, which is hereby established in the account. The funds in the Electronic Waste Penalty Subaccount may be expended by the board or department only upon appropriation by the Legislature.

(c) Notwithstanding Section 16475 of the Government Code, any interest earned upon funds in the Electronic Waste Recovery and Recycling Account shall be deposited in that account for expenditure pursuant to this chapter.

(d) Not more than 1 percent of the funds annually deposited in the Electronic Waste Recovery and Recycling Account shall be expended for the purposes of establishing the public information program to educate the public in the hazards of improper covered electronic device storage and disposal and on the opportunities to recycle covered electronic devices, including the development of the information required to be provided to retailers and their customers on the board's Internet Web site pursuant to Section 42465.4.

(e) The board shall adopt regulations specifying cancellation methods for the recovery, processing, or recycling of covered electronic waste.

(f) The board may pay an electronic waste recycling payment or electronic waste recovery payment for covered electronic waste only if all of the following conditions are met:

(1) The covered electronic waste, including any residuals from the processing of the waste, is handled in compliance with all applicable statutes and regulations.

(2) The manufacturer or the authorized collector or recycler of the electronic waste provide a cost free and convenient opportunity to recycle electronic waste, in accordance with the legislative intent specified in subdivision (b) of Section 42461.

(3) If the covered electronic waste is processed, the covered electronic waste is processed in this state according to the cancellation method authorized by the board.

(4) The board declares that the state is a market participant in the business of the recycling of covered electronic waste for all of the following reasons:

(A) The fee is collected from the state's consumers for covered electronic devices sold for use in the state.

(B) The purpose of the fee and subsequent payments is to prevent damage to the public health and the environment from waste generated in the state.

(C) The recycling system funded by the fee ensures that economically viable and sustainable markets are developed and supported for recovered materials and components in order to conserve resources and maximize business and employment opportunities within the state.

(g) (1) The board may make a payment to a manufacturer that takes back a covered electronic device from a consumer in this state for purposes of recycling the device at a processing facility. The amount of the payment made by the board shall equal the value of the covered electronic waste recycling fee paid for that device. To qualify for a payment pursuant to this subdivision, the manufacturer shall demonstrate both of the following to the board:

(A) The covered electronic device for which payment is claimed was used in this state.

(B) The covered electronic waste for which a payment is claimed, including any residuals from the processing of the waste,

has been, and will be, handled in compliance with all applicable statutes and regulations.

(2) A covered electronic device for which a payment is made under this subdivision is not eligible for an electronic waste recovery payment or an electronic waste recycling payment under Section 42479.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2008

Governor